

ENTERED

May 26, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JONATHAN D. MITCHELL,
(TDCJ-CID #2189588)

Petitioner,

vs.

LORIE DAVIS,

Respondent.

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CIVIL ACTION H-20-1101

MEMORANDUM ON DISMISSAL

The petitioner has failed to submit an application to proceed as a pauper or to pay a fee of \$5.00, as required by the Clerk's Notice of Deficient Pleading dated April 6, 2020. The Clerk's Notice also instructed the petitioner to complete the attached application forms for a writ of habeas corpus under 28 U.S.C. § 2254. The notice specifically provided that failure to comply as directed may result in the dismissal of this action. The petitioner's failure to file an application to proceed in forma pauperis, pay the filing fee, or submit the completed habeas forms forces this Court to conclude that he lacks due diligence.

Under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995); 8 James Wm. Moore et al., *Moore's Federal Practice* § 41.51(3)(b) & (e) (3d ed. 2017). Upon a proper showing, relief from this Order may be granted in accordance with Fed. R. Civ. P. 60(b). *See Link*, 370 U.S. at 635.

This action is DISMISSED without prejudice for want of prosecution.

SIGNED at Houston, Texas, on May 26, 2020.

A handwritten signature in black ink, appearing to read "Vanessa D. Gilmore", written over a horizontal line.

VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE